

Bay Area Air Quality Management District

**939 Ellis Street
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**Proposed Amendments to
BAAQMD Regulation 8 (Organic Compounds)
Rule 18 (Equipment Leaks)**

Staff Report

November 2002

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
BACKGROUND.....	1
PROPOSED REVISIONS	2
NEW SIP SUBMITTAL	2
ECONOMIC IMPACTS	2
ENVIRONMENTAL IMPACTS.....	3
REGULATORY IMPACTS.....	3
RULE DEVELOPMENT HISTORY	4
STATUTORY FINDINGS	4
CONCLUSION.....	4

STAFF REPORT

Proposed Amendments to BAAQMD Regulation 8, Rule 18 (Equipment Leaks)

EXECUTIVE SUMMARY

The proposed amendments include several minor administrative changes to Regulation 8 Rule 18. These changes are in response to US EPA's limited approval/limited disapproval of the rule for inclusion into the California State Implementation Plan (SIP) for the national ozone standard. The purpose of the changes is to correct the deficiencies noted by EPA, thereby allowing EPA to fully approve the rule into the SIP.

BACKGROUND

The proposed amendments to the District's Regulation 8, Rule 18 are intended to address deficiencies noted by US EPA in their limited approval/limited disapproval of the rule (66 Fed. Reg. 51568, October 10, 2001). If EPA has not fully approved the rule into the California State Implementation Plan (SIP) for the national ozone standard by May 9, 2003, the Bay Area would be subject to sanctions under the federal Clean Air Act.

Rule 18 regulates organic compound leaks from valves, flanges, connectors, pumps, compressors and pressure relief valves at each of the Bay Area refineries. Each refinery has at least 20,000 valves and the numbers of connectors is much larger. The rule amendments adopted in 1998 significantly lowered the allowable leak concentration limits to be the lowest in the country and required a better inspection and repair program be undertaken by refiners in order to avoid violation notices. The amendments reduced emissions by 1.2 tons per day. The amendments also created flexible compliance options to encourage refiners to implement their own programs and develop new technology. At that time, the federal government's Common Sense Initiative also advocated flexible compliance options, including for compliance with Maximum Achievable Control Technology (MACT) standards for control of toxic emissions from leaking equipment at refineries. The amendments were created to allow the refiners to combine requirements for an alternative monitoring and reporting plan for the MACT standards, administered by EPA, with alternative monitoring and reporting requirements for Rule 18 standards. To date, none of the five Bay Area refineries has submitted an alternative compliance plan to the District for approval.

EPA disapproved Regulation 8, Rule 18 because it does not require explicit EPA prior approval of alternative compliance plans under Sections 8-18 405 and 406 of the rule. As the rule is currently written, any alternative emission reduction

plan must be submitted to EPA for comments only; the plan would only require the approval of District's APCO for implementation. EPA policy prohibits provisions in SIP rules that would allow state officials to alter SIP requirements without EPA approval. Although, EPA approval would be sought for an alternative compliance program for MACT standards, the proposed amendments would explicitly require EPA approval of the alternative compliance plan. EPA approval does not constitute a new or undue burden.

PROPOSED REVISIONS

The proposed amendments to Regulation 8, Rule 18 are as follows.

Section 8-18-405 Alternative Emission Reduction Plan

Section 405.3 would be modified to remove the requirement that the plan be submitted to US EPA for comments during the 60-day public comment period. Section 405.4 would require explicit written approval from EPA, Region IX prior to approval by the District APCO.

Section 8-18-406 Interim Compliance

Section 406 would be modified to require that the facility meet the limits contained in Section 8-18-301 through 307 until receipt of written approvals of the alternative emission reduction plan from both the District APCO and the EPA.

NEW SIP SUBMITTAL

Upon approval of amendments to the rule, District staff will resubmit the rule via the California Air Resources Board (ARB) to EPA for review and full approval of the rule.

ECONOMIC IMPACTS

Socioeconomic Impacts

Section 40728.5 of the California Health and Safety Code (H&SC) requires districts to assess the socioeconomic impacts of amendments to regulations that, "...will significantly affect air quality or emissions limitations." This regulatory proposal does not fall within the scope of an amendment that significantly affects air quality or emissions limitations. The proposed amendments do not impose any additional emission standards, or monitoring or reporting requirements on fugitive emission sources located at refineries. The amendments clarify that explicit EPA approval of an alternative emission reduction plan is required before District approval of the plan. Alternative emission reduction plans are not mandated by Regulation 8, Rule 18, but instead are allowed to ease the burden of compliance. Because alternative emission reduction plans were allowed by 1998 rule amendment development process and are totally voluntary on the part of the affected facilities and because submission of the plan to the EPA for

comment is currently required by the rule, the District anticipate no socioeconomic impact from these changes.

Incremental Costs

Under the California H&SC 40920.6, the District is required to perform an incremental cost analysis for a proposed rule. To perform this analysis, the District must (1) identify one or more control options achieving the emission reduction objectives for the proposed rule, (2) determine the cost effectiveness for each option, and (3) calculate the incremental cost effectiveness for each option. To determine incremental costs, the District must “calculate the difference in the dollar costs divided by the difference in the emission reduction potentials between each progressively more stringent potential control option as compared to the next less expensive control option.” This section of the Health and Safety Code is not applicable to this amendment. There are no identifiable costs associated with this project as there is no change in the regulatory standards or emission limitations.

ENVIRONMENTAL IMPACTS

The District has determined that these amendments to Regulation 8; Rule 18 are exempt from provisions of the California Environmental Quality Act pursuant to State CEQA Guidelines, Section 15061, subd. (b)(3). The amendments are purely administrative in nature and are intended to correct oversights in the rule. The amendments do not affect emission standards or rates. It can be seen with certainty that this rulemaking project will have no environmental impacts and is therefore exempt under Guidelines Section 15061, subd. (b)(3).

REGULATORY IMPACTS

Section 40727.2 of the Health and Safety Code requires an air district, in adopting, amending, or repealing an air district regulation, to identify existing federal and district air pollution control requirements for the equipment or source type affected by the proposed change in district rules. The district must then note any differences between these existing requirements and the requirements imposed by the proposed change. Where the district proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements, the district may simply note this fact and avoid the analysis otherwise required by Section 40727.2.

These proposed amendments to Regulation 8, Rule 18 do not impose new or more stringent requirements and are therefore exempt from analysis under the Health and Safety Code requirement.

RULE DEVELOPMENT HISTORY

On August 2, 2002, the District sent a Request for Comments letter to the five petroleum refineries located in the District, the Western States Petroleum Association (WSPA), US EPA Region IX, local environmental and community groups, and the rule development mailing list. The request for comments was also posted on the District website. The District received no comments from any group or individual.

STATUTORY FINDINGS

Pursuant to Section 40727 of the California Health and Safety Code (H&SC), regulatory amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments are:

- Necessary for approval of District Regulation 8, Rule 18 into the California State Implementation Plan;
- Authorized by Sections 40000, 40001, 40702, 40725 through 40728 of the California Health and Safety Code;
- Clear, in that the rule is written or displayed so that it can be easily understood by the persons directly affected by it;
- Consistent with other District Rules and Regulations, and is not in conflict with, nor contradictory to state or federal law;
- Non-duplicative of other statutes, rules, or regulations;
- Implementing, interpreting, or making specific the provisions of California Health and Safety Code Sections 40001 (Adoption and Enforcement of Rules and Regulations) and 40702 (Adoption of Rules and Regulations).

CONCLUSION

The proposed amendments have met all legal noticing requirements and have been discussed with all interested parties. District staff recommend adoption of amendments to Regulation 8 Rule 18 and approval of the SIP submittal.